

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent

Patent No: 5989277

Issue Date: Nov. 23, 1999

Title: SURGICAL INSTRUMENT WITH OFFSET JAW ACTUATOR

Application

Serial No: 09/016090

Filing Date: January 30, 1998

Mail Stop: PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA. 22313-1450



USPTO
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2012 APR 26 10:11:48

**PETITION FOR RECONSIDERATION
OF DISMISSAL OF UNINTENTIONAL ABANDONMENT & MAINTENANCE FEE PAYMENT**

Sir:

1. US Patent number issued on November 23, 1999 to LeMaire and Hanna.
2. I, Ronald R. Kilponen, am the attorney of record on this issued patent, see Appx. A.
3. The 11-1/2 year maintenance fee was unintentionally not paid on time or within the 6 month surcharge period.
4. A petition to accept the unintentionally delayed payment of the maintenance fee was mailed on 1-16-2012 and was erroneously signed by one registrant only, see Appx. B.
5. A notification dismissing the above petition was mailed Feb. 23, 2012, see Appx. C.
6. Registrant's attorney contacted Ms. Sherry Brinkley, Petitions Examiner in the Office of Petitions who stated that the attorney of record could file this petition to reconsider having this delayed maintenance fee accepted.
7. The attorney of record is submitting this petition requesting that the dismissal of the unintentional abandonment of the issued patent for failure to pay the maintenance fee be reversed, the unintentionally delayed maintenance fee and surcharge be accepted and the patent be deemed current and in full force to the full length of it's term.

The petitioner states that the delay in the payment of the maintenance fee during the appropriate

time period and the surcharge period was unintentional.

The payment of the unintentional abandonment petition fee comprised of US\$2365 under 37 CFR 1.20(g) for the 11-1/2 year maintenance fee plus the surcharge of US\$1640 under 37 CFR 1.20(i)(2) for a total of US\$4005 was paid with the petition mailed 1-16-2012 in the form of check no. 8152. This amount is still at the Patent Office.

8. This petition includes check no. 2082 in the amount of US\$400.

9. If petitioner has over looked any procedure or statement in requesting the reversal of this dismissal, he respectfully requests that the Petitions Examiner please call 248 344 7132 to discuss and expedite this petition.

Respectfully Submitted,



Ronald R. Kilponen

Date: 4-19-12

Reg No. 37,656

Law Office of Ronald R Kilponen

P.O. Box 1132

Novi, MI. 48376-1132

PH: 248 344 7132

Appx. A

COMBINED DECLARATION AND POWER OF ATTORNEY

As the below named inventor, I/We hereby declare that:

My residence, post office address and citizenship are as stated below next to my name, I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention which has the following title:

Surgical Instrument with Offset Jaw Actuator

the specification of which:

XX is attached hereto,

_____ was filed on _____ as

Application Serial No: _____

and was amended on _____ (if applicable)

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge a duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

PRIORITY CLAIM - SECTION 119

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventors certificate or any PCT International application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

XX no such applications have been filed.

such applications have been filed as follows:

Country: _____ App. Number: _____ Day/Month/Year: _____ Priority Claimed: Yes _____ No _____
Yes _____ No _____

PRIORITY CLAIM - SECTION 120

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of

EXPRESS MAIL: E203786926745

Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

XX no such applications have been filed.

 such applications have been filed as follows:

Application Serial No: Filing Date: Patented, Pending, Abandoned:

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, Section 1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY

As the named inventor(s), I/We, hereby appoint the following attorney to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. Direct all correspondence and telephone calls to:

Ronald R. Kilponen
65 Plymouth Road
Bellingham, MA.
02019-1242

Telephone: 508/966-4137 Registration No: 37,656

SIGNATURES

Full name of sole or first inventor Norman J. LeMaire III
Inventors Signature *Norman J. LeMaire III*
Date 1-29-98 Country of Citizenship United States
Residence 595 Pleasant Street, Raynham, MA. 02767
Post Office Address Same

Full name of second joint inventor William R. Hanna, Jr.
Inventors Signature *William R. Hanna Jr.*
Date 1-29-98 Country of Citizenship United States
Residence 5500 N. Main Street, Bldg. 15 Apt 209, Fall River, MA. 02720
Post Office Address Same

09015090-013098

Appx. B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent

Patent No: 5989277

Issue Date: Nov. 23, 1999

Title: SURGICAL INSTRUMENT WITH OFFSET JAW ACTUATOR



Application

Serial No: 09/016090

Filing Date: January 30, 1998

Commissioner for Patents
Mail Stop: Petition
P.O. Box 1450
Alexandria, VA. 22313-1450

PETITION FOR UNINTENTIONAL ABANDONMENT & MAINTENANCE FEE COVER LETTER

Sir:

Please find enclosed the papers listed below.

1. Petition and payment of third maintenance fee for patent number 5989277, PTO/SB/66, three pages.
2. Maintenance fee and surcharge check no. 8152 in the amount of \$4005.00
3. This cover sheet, one page.
4. Self addressed stamped post card receipt.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Ronald R. Kilponen".

Law Office of Ronald R. Kilponen
Attn: Ronald R. Kilponen
P.O. Box 1132
NOVI, MI.
48376-1132
ph: 248 344 7132

Date: 1/16/12

Reg. No. 37,656

Certification Under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to : Commissioner for Patents, Mail Stop : Petition, P.O. Box 1450, Alexandria, VA. 22313-1450 on this date 1-16-2012.

Signature

A handwritten signature in cursive script, appearing to read "Ronald R. Kilponen".

Ronald R. Kilponen

Printed Full Name

**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))**

Docket Number (Optional)

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 5989277Application Number 09/016090Issue Date Nov. 23, 1999Filing Date Jan 30, 1998

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above – identified patent

☐

Is a reissue of original Patent No. _____ original issue date _____

original application number _____

original filing date _____

☐

resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____

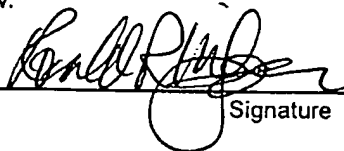
filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class main in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

1-16-2012

Date



Signature

Ronald R. Kitponey

Typed or Printed Name of Person Signing Certificate

[page 1 of 3]

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input checked="" type="checkbox"/> \$ <u>2365</u>	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 2365

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of \$ 1640 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 1640

5. MANNER OF PAYMENT

☒ Enclosed is a check for the sum of \$ 4005

☐ Please charge Deposit Account No. _____ the sum of \$ _____

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. _____

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

7. OVERPAYMENT

As to any overpayment made please

OR

☐

Credit to Deposit Account No. _____

☒

Send refund check

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

Norman J. Le Maire III
Signature(s) of Petitioner(s)

1/5/12
Date

Norman J. Le Maire III
Typed or printed name(s)

Registration Number, if applicable

508 946 1944
Telephone Number

9 Clayton Road, Middleboro, MA. 02346
Address

Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES

☒

Maintenance Fee Payment

☒

Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☒

Self Addressed Stamped Post Card

MAJESTIC MEDICAL, INC.

9 CLAYTON ROAD
MIDDLEBORO, MA 02346-1063

Eastern Bank

Boston, MA 02110
easternbank.com
1-800-EASTERNE2Shield® Check Fraud
Protection for Business

53-179-113

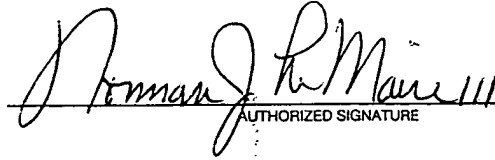
1/10/12

\$ 4005.00

DOLLARS
100

Commissioner for Patents

FOUR THOUSAND FIVE DOLLARS


 AUTHORIZED SIGNATURE

Security features. Details on back.



MEMO

US Pat No 5989277

Please acknowledge receipt of the
below listed papers by applying a
date stamp & returning this
card:

US 5989277 Pat.
#5989277
N. LAMARE

- 1) Pat. Unintent. Aband. & Mfee Cover sheet - one page
- 2) Mfee & Surcharge check # 8152 amt. ~~\$4005~~ PPK 4005
- 3) this Post Card
- 4) ~~Letter sheet and 724~~ PPK PTO/56/66 - three pages.

Thank You-

Appx. C



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov



Paper No.

OFFICE OF RONALD R. KILPONEN
P.O. BOX 1132
NOVI, MI 48376-1132

MAILED
FEB 23 2012
OFFICE OF PETITIONS

In re Patent No. 5,989,277 :
Issue Date: November 23, 1999 :
Application No. 09/016,090 :
Filed: January 30, 1998 :
Patentee: Lemaire, et al. :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed January 19, 2012, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

This patent issued on November 23, 1999. Accordingly, this patent expired on November 23, 2011 for failure to pay the third maintenance fee. Since the petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

The petition lacks item (1) above.

The statement of unintentional delay is not considered to be submitted by a proper party as required by 37 CFR 1.378(d), which states that any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

In this regard, the petition is signed by one of two joint inventors. An unsigned paper or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where a petition (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other application.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that (person signing petition) was ever given a power of attorney to act on behalf of the other inventors, or that he/she is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b)¹, the petition is considered not to contain a proper statement of unintentional delay.

If reconsideration of this decision is desired, a properly signed petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. For applicant's convenience a Statement under 37 CFR 3.73(b) is attached. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include any lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the \$2,365 maintenance fee and the \$1,640 surcharge submitted with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

A courtesy copy of this decision is being mailed to petitioner at the address noted on the petition. Unless otherwise directed, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

Further correspondence with respect to reinstatement of this patent should be addressed as follows:

By mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
 Customer Service Window, Mail Stop PETITION
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

¹37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

The centralized facsimile number is (571) 273-8300.

Any questions concerning this decision may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MR. NORMAN J. LEMAIRE III
9 CLAYTON ROAD
MIDDLEBORO, MA 02346

Please acknowledge receipt of the below listed papers by applying a date stamp & returning this card.

US Pat 5989277
Lemare
Petition

- 1) Petition to re-consider dismissal of unintentional abandonment - 2pgs;
Appx A. - 2pgs; Appx B - 5pgs; Appx C - 3pgs.
- 2) Petition Fee check #2082 amt. US \$1400 -
- 3) This Card.

- Thank You -

9-80-720 2082

Ronald R. Kilponen 03-99
P.O. Box 1132
Novi, MI 48376-1132

4-19 20 12

PAY TO THE ORDER OF Commissioner for Patents

Four hundred & no/100

\$400.00

DOLLARS

LASALLE BANK MIDWEST, N.A.
TROY, MICHIGAN 48064
ABN AMRO
LASALLE BANK CBM

Petition # 5989277

NP